

Appl. No. 10/086,912
Response dated Dec. 20, 2004
Reply to Office Action of August 20, 2004

REMARKS

Applicants have amended claim 1 to better clarify the invention. Claims 9-29 have been canceled without prejudice, being drawn to a non-elected invention. New claims 30-36 have been added. Claims 1, 2, 4-8 and 30-36 are pending.

Claim 1 has been amended to more specifically recite the peroxy-carboxylic acid of the present composition. Additionally, claim 1 has been amended to clarify that there is no added stabilizer in the composition. This is supported, for example, by page 19, lines 21-25 of the specification, where a level of 0 (zero) weight percent stabilizing agent is provided.

For the reasons given below, Applicants submit that the amendments above and the remarks below place the claims in condition for allowance, and respectfully request entry of this paper.

Rejection Under § 112

Claims 1, 2 and 4-8 were rejected under 35 U.S.C. § 112, first paragraph, for not reasonably providing enablement for all peroxy-carboxylic acids. Although Applicants do not agree with this, to facilitate prosecution, claim 1 has been amended to recite a more specific peroxy-carboxylic acid. Support for this peroxy-carboxylic acid can be found, for example, on page 8, lines 19-20.

Applicants request withdrawal of this rejection.

Rejection Under § 103(a)

Claims 1, 2 and 4-8 were rejected under 35 U.S.C. § 103(a) as being obvious over WO 99/67213 to Solvay (the '213 application). Applicants respectfully disagree.

The '213 application, which has been described in previous papers, discloses ester peroxy-carboxylic acid compositions that use a stabilizer which is an antioxidant or sequestrant (see the '213 application at page 6, lines 18-29, each of the Examples, and also claim 9). Page 7, lines 8-10, emphasize that particularly desirable solutions are those containing stabilizer. The stabilizer is required to provide stability, which the compositions of the '213 application otherwise lack.

Appl. No. 10/086,912

Response dated Dec. 20, 2004

Reply to Office Action of August 20, 2004

The Office Action points to Example 1 of the '213 application. Applicants agree that Example 1 does provide a solution containing 14.04 g glutaric acid, 9.79 g ethanol, 17.65 g concentrated hydrogen peroxide, 1 g concentrated sulphuric acid, 57.52 g demineralised water, 0.1 g p-hydroxy benzoic acid, 0.17 g of 1-hydroxyethane-1,1-diphosphic acid (Briquest ADPA 60A). This solution includes, as acknowledged by the Office Action, a stabilizer, particularly, 1-hydroxyethane-1,1-diphosphic acid (Briquest ADPA 60A). The pending claims specifically recite the lack of stabilizer in the claimed composition.

At least for these reasons, Applicants contend that the '213 application neither teaches nor suggests the presently claimed invention. Withdrawal of this rejection is respectfully requested.

Summary

In summary, Applicants submit that each of claims 1, 2, 4-8 and 30-36 are in condition for allowance. The Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this application.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
(612) 332-5300

Date:

Dec 20, 2004

Mara E. Liepa
Mara E. Liepa
Reg. No.: 40,066

23552

PATENT TRADEMARK OFFICE